IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY EIGHTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

-

WRIT PETITION NO : 26882 of 2003

Between:

1 Mathi Raj Kumari, W/o Harichandra Prasad,
r/o Nidadavole, W.G.Dist.,

2 Mathi Prasanna, D/o Harichandra Prasad, rep., by her
mother & natural guardian Mathi Raj Kumari,
r/o Nidadavole, W.G.Dist.,

3 Master Mathi Ravichandra Pradeep, s/o Harichandra Prasad
rep.,by his mother& natural guardian Mathi Raj Kumari,
r/o Nidadavole, W.G.Dist., … Petitioners

AND

1 The Superintendent of Police, Kurnool District.
2 Mathi Harichandra Prasad, S/o Gogulu,
Bank Officer, Andhra Bank, Allagadda Branch, Allagadda Mandal,
Kurnool District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of mandamus declaring the action of the 1st respondent in not executing the NBW's dt.11-9-2002 pending against the respondent No.2 herein in connection with M.P.No.7651/99 in M.C.No.59/94 on the file of 2nd Additional Judicial 1st Class Magistrate, Kovvuru, W.G.District as illegal and arbitrary and consequently direct the 1st respondent herein to cause arrest of the 2nd respondent herein and produce him before the 2nd Additional Judicial 1st Class Magistrate, Kovvuru, W.G.District

Counsel for the Petitioner: MR.POLISETTI RADHA KRISHNA

Counsel for the Respondent No.1: GP FOR HOME

Counsel for the Respondent No.2: Sri D.V.Sitaram Murthy.

The Court made the following :

O R D E R :

Heard both sides.

The petitioners herein, who include wife and children of the second respondent herein, filed this Writ Petition seeking, *inter alia,* a Writ of Mandamus for due execution of the Non Bailable Warrant ordered on 11.09.2002 against the second respondent in Maintenance Case no.59 of 1994 on the file of the II Additional Judicial Magistrate of First Class, Kovvur, West Godavari district.

It is now represented by the learned counsel appearing on behalf of the petitioners that subsequent to filing of this Writ Petition, the second respondent has filed application for recall of the Non Bailable Warrant and the same was ordered subject to condition. As per the same, a sum of Rs.15,000/- has been paid by him out of Rs.75,000/- which was due at the relevant point of time. However, still the second respondent has not paid the balance amount.

Having regard to the fact that the Non Bailable Warrant has already been recalled, the Writ Petition has become in fructuous. Accordingly, the Writ Petition is dismissed as in fructuous. However, it shall be open for the petitioners to pursue the process of due execution as contemplated under law for the balance amount to which they are entitled. It is needless to observe that the amount of Rs.15,000/- deposited by the second respondent and any other deposits by the second respondent in this regard, shall be permitted to be withdrawn by the petitioners without furnishing any security. No costs.

28.10.2004

DRK

Copy to:

1)The Superintendent of Police, Kurnool

2)Two CCs to the G.P.for Home, High Court of A.P., High Court buildings, Hyderabad (o.u.t.)

3)Two CD copies.